

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

District of Montana

Helena Division

AUG 12 2022

Clerk, U.S. Courts
District of Montana
Helena Division

Case No.

CV 22-52-H-SEH

(to be filled in by the Clerk's Office)

Joseph wayne Covert

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

GAVIN Roselle's
Kim mico
Powell County Jail

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

AMENDED COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Joseph Wayne Covert / Joe Covert

Joe Kern / Joseph Wayne Kern

Bozeman Jail

605 South 16th Street

Bozeman

MT

59715

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Gavin Roselles

Under Sheriff

Powell County Sheriff Dep / Jail

409 Missouri Ave

Deer Lodge

MT

59722

City

State

Zip Code

☐ Individual capacity☒ Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Kim Mieu

SHERIFF

Gavin Roselles / Powell Co Sheriff Dep / Jail

409 Missouri Ave

Deer Lodge

MT

59722

City

State

Zip Code

☐ Individual capacity☒ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th amendment Right to be Secure. 14th amendment Right
By not segregating knowingly placing in unsafe housing
equal protection & Due process clause

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Gavin was Notified of occurring Sexual assaults on Joseph By Bord, Then placing the 2 inmates on the same Block where Joseph was continually abused & Penetrated By Bords Dildos unwantedly, Forced. Kim mix u Housed Joseph knowing Bord was gay and Joseph had a prior Sex offence and had notified the inmates on Block 2 of Joseph's offence knowingly placing at Risk of Death or serious bodily injury.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

Not Create a safe environment & Housing did Not Place on different Blocks After aware of assaults

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

on June 6th I was assaulted By Bord. Bord grabbed my penis. I notified Gavin on same 6th. Gavin placed us both on Block 2 while getting in the shower June 8th Bord grabbed me while getting in the shower penetrating my Rectum. June 9th Bord grabbed my penis again and we got into a Fist Fight on Block 2 Powell Co Jail Gavin did Not Separate Covert and Bord leading to continued Sexual assaults on Covert

C. What date and approximate time did the events giving rise to your claim(s) occur?

June 6th 2:30 PM June 8th 6:30 - 8:00

June 9th 9:30 AM

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was sexually assaulted, harassed, I was penetrated by Bird's finger while getting into the shower inmate Brown saw Bird constantly harassing me he was also harassed sexually by Bird cameras in Block 2 where housed at Powell Co Detention center / Jail Bird constantly following me to Bathroom

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

After the first fight I was taken to Powell Co medical center I told the doctors they refused to check, I had some bleeding and pain "Rectum" and Rocked Back and Forth mentally disturbed in iso cell #1 for the 6 days to follow. I'm still suffering mentally insecure PTSD Bad. Can't get in the shower without reliving the event

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Pay All Mental Health Costs, get me Counselor for mental Health Trauma \$300,000. for Damages Punitive STRESS, PTSD, insecurities I'm Traumatized & Cry and Rock Back & Forth, I am scared in Jail that it will happen again, I jump at voices & am constantly in fear of other males here in Jail. I Seclude myself and don't talk to others any more of fear that I will be raped or sexually assaulted. And Drop Charges against me in Powell County

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Powell County Detention Center / Jail

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☒ No

☒ Do not know

Told By Jailers "No"

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

P.R.E.A

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Voluntary Statement To Sheriff
Powell County Detention Center/Jail

2. What did you claim in your grievance?

PREA
Sexual assault Being grabbed
And Rectum penetration

3. What was the result, if any?

Dont know "None"?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I was Transferred without any of my property including THIS lawsuit. I had to start over on the lawsuit when got Transferred TO Bazeman Jail. I had it almost wrote out in isolation cell I But it was purposely left By Jailers along with my family photos & Current Court paperwork

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NO grievance process I was told
Filed a P.R.E.A.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

There was a fight on the 8th or 9th of June with Bord and Brown we were questioned By Gavin He asked me if I had anything to add I said yes I dont appreciate Bord grabbing my pants He SMiled at me and Told me to go Back to my cell!

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

on Jail Texting Tablet
There are TEXTS to my mom Brother and wife on June 6th about Being grabbed they are on paper in my property in Powell Co They Refuse to send it here to Bazeman I was yelling I need my property as I was Being Brought out to the transport van Jailer Keith

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

Refused to send me with my lawsuits or my papers for my current charges in Powell county I did not get any of my property

VIII. Previous Lawsuits

Just what I was wearing!!!

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

No

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

8-3-22

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Joseph Wayne Covert
 Joseph Wayne Covert
 3005775
 605 South 16th Street
 Bozeman MT 59715
 City State Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address